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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

New York, N.Y.

4 v.

13 CR 521 (LTS)

5 SLAWOMIR SOBORSKI,

6 Defendant.

7 -----x

8
9 September 13, 2016
4:09 p.m.

10 Before:

11 HON. LAURA TAYLOR SWAIN,

12 District Judge

13
14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the
Southern District of New York

17 BY: MICHAEL LOCKARD

Assistant United States Attorney

18 WILLIAM J. STAMPUR

19 Attorney for Defendant

20 INTERPRETER: ANDRZEJ SIERGIEJUK

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(Case called)

MR. LOCKARD: Good afternoon, your Honor. Michael Lockard for the government.

THE COURT: Good afternoon, Mr. Lockard.

MR. STAMPUR: William J. Stampur for Mr. Soborski. Good afternoon, your Honor.

THE COURT: Good afternoon, Mr. Stampur.

Good afternoon, Mr. Soborski.

MR. STAMPUR: May I be seated, Judge?

THE COURT: Yes. Please.

And so, Mr. Siergiejuk --

INTERPRETER: Yes.

THE COURT: -- you'll be interpreting from English to Polish and vice versa?

INTERPRETER: That's right.

THE COURT: And so, Mr. Soborski, if you have any difficulty understanding the interpretation at any time, please raise your hand and we will address the issue.

Are you understanding the interpreter clearly so far?

THE DEFENDANT: Yes.

THE COURT: Thank you.

MR. STAMPUR: Judge, just for the record, he speaks English quite well. But I think he'll feel more support when he has the Polish interpreter. So he may respond to some questions in English also. I just want to warn the Court.

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1 THE COURT: Thank you. I thought that might be the
2 case, but this is obviously a very important proceeding. So it
3 is best to have the services of the interpreter.

4 MR. STAMPUR: Absolutely.

5 THE COURT: So we are here today for sentencing. I
6 have received and reviewed the presentence investigation
7 report, which is dated May 4, 2015, including the
8 recommendation and addendum.

9 I've also received and reviewed the defense's
10 October 8, 2015, submission, which was accompanied by a letter
11 from Wiwiana Grzybowska, W-I-W-I-A-N-A-, G-R-Z-Y-B-O-W-S-K-A; a
12 letter from Baeta Borecka, B-A-E-T-A, B-O-R-E-C-K-A; records
13 relating to Mr. Soborski's past employment and his resume; and
14 representative photographs of prison cells in Estonia, where
15 Mr. Soborski was held before his extradition to the United
16 States.

17 I have also received and reviewed a supplemental
18 submission from the defense and the government's submission
19 which is dated November 5, 2015. The defense supplemental
20 submission was filed on September 6, 2016.

21 Are there any other written submissions that the
22 parties intend me to have considered in connection with the
23 sentencing?

24 MR. STAMPUR: No, your Honor.

25 MR. LOCKARD: Not from the government, your Honor.

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1 THE COURT: Mr. Stampur, have you read the presentence
2 report and reviewed it with Mr. Soborski?

3 MR. STAMPUR: Yes.

4 THE COURT: Mr. Soborski, has the presentence report
5 been read to you in Polish?

6 THE DEFENDANT: Yes.

7 THE COURT: And have you discussed it with your
8 attorney?

9 THE DEFENDANT: Yes. Yes. Yes. I'm sorry.

10 THE COURT: You and your attorney have discussed the
11 presentence report, is that correct?

12 THE DEFENDANT: Yes. Exactly.

13 THE COURT: Mr. Stampur, do you have any objections or
14 other issues with respect to the content of the report that you
15 wish to address at this time?

16 MR. STAMPUR: No, your Honor. I think some of those
17 issues will be addressed by the Court as a result of my
18 sentencing submission. Is there a reason to bring them to the
19 Court's attention at this moment, or should I just integrate
20 them into my comments?

21 And by that, what I'm referring to is I asked the
22 Court to consider deleting or addressing multiple paragraphs
23 within the PSR that talk about the charges of his codefendants
24 with respect to assassinations and those related crimes. And
25 the reason for that is twofold. I thought that, number one,

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1 even though I guess they're intertwined as an overall picture,
2 I consider them prejudicial to my client. But I know your
3 Honor knows the entire picture of this case.

4 But more importantly, if it follows him subsequent to
5 today's proceeding, it may impact on his designation by the
6 Bureau of Prisons. And I just didn't know how to address that,
7 because I thought it would be extremely unfair for that to
8 carry over to my client. So that's one issue.

9 THE COURT: All right. So that's where I hoped to
10 start. I would like you to be specific about the passages that
11 you would be asking to have deleted.

12 MR. STAMPUR: Absolutely.

13 On page seven of my first sentencing submission, I
14 specifically point out that paragraph 26, 29 through 31, 42
15 through 45 and 51 through 64 address the things I just
16 referenced that are collateral to my client's participation in
17 his indictment and his role in this offense. My research has
18 indicated that it's often the case that the Bureau of Prisons
19 will look at this, and there are public safety factors that may
20 be affected, as I just indicated. And it could affect his
21 designation.

22 THE COURT: All right. So let's take those one by one
23 and see if the government objects.

24 Paragraph 26 does not say anything specific about
25 Mr. Soborski. It discusses Hunter, Vamvakias and Gogel.

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1 MR. STAMPUR: That's why I actually thought it should
2 be deleted, because it has no bearing on my client.

3 THE COURT: And so that's why I'm asking Mr. Lockard
4 why he objects.

5 MR. STAMPUR: I'm sorry.

6 MR. LOCKARD: Your Honor, I'm just pausing a moment.

7 THE COURT: If you want to look at all of the passages
8 before you respond, that's fine.

9 MR. LOCKARD: So I guess I have an overall response,
10 but rather than give the overall response, I'll give a response
11 directly to this paragraph, which is that it certainly is
12 relevant to the offense conduct of Mr. Soborski; because, as
13 described later in the PSR and including in several paragraphs
14 that Mr. Stampur has proposed be deleted from the PSR, the
15 offense conduct includes Mr. --

16 THE COURT: Maybe you can speak a little louder.
17 Mr. Stampur seems to be having a little trouble hearing you.

18 MR. LOCKARD: The offense conduct includes discussions
19 about violent acts. It includes discussions about the
20 willingness to engage in those violent acts being part of the
21 purpose of recruiting the types of individuals who were
22 recruited to join the organization, which includes why
23 Mr. Soborski was considered and selected as one of those
24 individuals. It includes Mr. Soborski's willingness to
25 participate in those acts of violence as one of the reasons

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1 that he did ultimately join the team. And the fact that
2 several of his colleagues so to speak did, in fact, continue on
3 to plan out those acts of violence is relevant to the overall
4 offense conduct and the course of conduct that Mr. Soborski
5 participated in.

6 So I think, while paragraph 26 doesn't specifically
7 mention Mr. Soborski, it sort of describes the conclusion of a
8 trajectory that was launched in a lot of the earlier meetings
9 and discussions that Mr. Soborski was a participant in, and
10 demonstrates that those discussions were not fluff or fantasy
11 or speculation. They did, in fact, result in a very serious
12 plot; one that Mr. Soborski was not selected to participate in,
13 but that he joined the organization with the understanding that
14 that would be part of the responsibilities and that, when he
15 joined, expressed his willingness to engage in those acts.

16 So for those reasons the government thinks that
17 paragraph 26, though not specifically mentioning Mr. Soborski,
18 is nonetheless relevant to an evaluation of the overall offense
19 conduct that he did participate in.

20 MR. STAMPUR: Just do you want me to comment on that?

21 THE COURT: Just, Mr. --

22 MR. STAMPUR: Okay.

23 THE COURT: Mr. Stampur, I get to speak first, then
24 I'll let you speak.

25 MR. STAMPUR: I'm sorry, Judge.

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1 THE COURT: So, Mr. Lockard, is the government
2 amenable to the deletion of any of the paragraphs that were
3 mentioned by Mr. Stampur?

4 MR. LOCKARD: I think at this point, based on the
5 rationale that Mr. Stampur has advanced, no.

6 THE COURT: All right. Mr. Stampur, briefly?

7 MR. STAMPUR: Your Honor, I take umbrage with
8 Mr. Lockard's comments. And I might as well take this
9 opportunity to suggest that his comments are extremely
10 disingenuous. And I'd like to go into the history of how my
11 client got involved in this conspiracy and how the government
12 has spun -- because it is their spin for him, especially in
13 their response to my first submission. And that's why I
14 actually followed up some of those issues in my second
15 submission.

16 My client was recruited. When I say "recruited," in
17 the normal scope of his employment -- because your Honor can
18 see from both the PSR and my submission that my client has been
19 employed as a security person throughout his 40-something years
20 and, in fact, prior to that worked for the Polish government.
21 And at the time of his -- the genesis of his involvement in
22 this case was in the normal procedure of his being at home at
23 his computer and getting an e-mail from a source that he didn't
24 know. It wasn't Mr. Hunter at the time. It was another
25 e-mail. And it talked about if he wanted a job, he should come

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1 to Thailand. It involved a security, quote/unquote. And
2 that's how it started.

3 And when he got to Thailand, which was the very first
4 step in this nightmare for him, he did meet Mr. Hunter, and
5 eventually he met some of the other codefendants at that time.
6 But the reality was that at no time, no time did he ever
7 express any desire, any interest, as the government knows, in
8 participating in this quote/unquote bonus work that they
9 reference so many times in their response to the probation
10 department in preparation for the PSR. And, in fact, as time
11 went on, one of his codefendants, Vamvakias, even told the
12 agents, that that guy, we don't want him there, because he
13 removed himself from that scenario.

14 So I just don't get the spin where the government
15 wants to constantly say that he was involved in potential
16 violence, because, in fact, he wasn't. And from the very
17 beginning, at the first meeting in Thailand, when he met with
18 Hunter for the very first time, and they had this collective
19 meeting, Hunter went on a tirade that I've seen the evidence,
20 where he talked about -- and I refer to it as braggadocio,
21 because he was referencing all these different things that he
22 had done in his life as a sergeant in the capacity of his own
23 untoward activities. My client listened, and that's all.
24 There were times later when the confidential sources showed up
25 and he had a meeting with them, as they did with all the other

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1 individual codefendants. And they explained that this case
2 involved the potential of transportation of a lot of drugs, a
3 lot of drugs. And my client, the only thing he ever responded
4 to in many of these colloquies was either da (phonetic) or yes.
5 He never expressed interest, and no time were there ever any
6 talk about arms, other than there's specific references,
7 constant references that the only thing you have to do is
8 provide security; you don't have to touch drugs. And there are
9 a few references where they said, if we have to take somebody
10 down, are you willing to go along with it? And he just said
11 yes.

12 Now, that being said, that's the extent of the
13 so-called violence that the government keeps saying my client
14 was involved in. But to intertwine him with the other three
15 codefendants, who were eventually indicted on the alleged plot
16 to assassinate DEA agents, I think, is very unfair and is
17 disingenuous, because the facts specifically suggest that my
18 client went there for security. And that's what he continued
19 to do during the entire life of this conspiracy, in Thailand,
20 in Africa and in the Bahamas.

21 At no time, at no time did he ever indicate that he
22 would do that. In fact, he told the other codefendant he
23 didn't want any part of it. And at one moment in the
24 Bahamas -- because that to me is the crux. When that supposed
25 shipment was leaving the Bahamas to allegedly come to New York,

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1 there was a meeting in a hotel, a motel. My client wasn't
2 there for the majority of that meeting, where there were these
3 lengthy discussions about the follow-up in Liberia, which he
4 had already said I want no part of. And then the government
5 references that, but they do know, and they have a video of him
6 coming in late from that meeting, sitting on the corner of the
7 bed, listening to what was discussed, not saying a word.

8 So how can they at this point in time say he was
9 involved in it? Because he wasn't. Never, ever. So the
10 association with the codefendants is improper. And I think
11 it's improper to collectively throw it into the PSR. And I
12 think the facts speak for themselves. It is what it is.

13 THE COURT: Thank you.

14 Mr. Lockard, anything further?

15 MR. LOCKARD: Yes, your Honor.

16 So Mr. Stampur said that it was improper for the
17 government to argue that Mr. Soborski was involved in the plot
18 to murder the DEA agent and the informant. That is not what
19 we're arguing. I want to make that clear.

20 What we are arguing is that Mr. Soborski intentionally
21 intertwined himself with an organization that he knew, because
22 it was expressed to him repeatedly, was involved in large-scale
23 drug trafficking and violence. He knew that.

24 I submit that it is not plausible to suggest that he
25 didn't know that that's what he was traveling to Thailand for,

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1 because he was hit over the head with it repeatedly when he got
2 there that this is the nature of the organization. And he
3 didn't act surprised. He didn't say, this is not what I signed
4 up for. He expressed his interest and willingness to join that
5 organization, including specifically, when it was discussed
6 with him, acts of violence that he would be offered an
7 opportunity to participate in or may be asked to do. And that
8 was by Mr. Hunter who expressed that to him.

9 And we recite, we quote some of the portions of the
10 transcripts of those meetings on pages five through ten of the
11 government's sentencing submission. And Mr. Soborski
12 repeatedly expressed his willingness to participate in
13 facilitating drug trafficking and also acts of violence. He
14 did not ultimately participate in that particular plot, but
15 when he joined the organization, he knew that that was the
16 nature of the organization he was getting into. And he
17 expressed his willingness to participate in those activities
18 and then did, in fact, participate in the putative drug
19 transactions, leading up to right before the time that his
20 codefendants then further crystallized the murder-for-hire
21 plot.

22 So it's not like there's a clean division among these
23 five or six individuals, between people who were willing to do
24 violence and people who weren't. They were all in the mix
25 together from the outset. And then, as the course of conduct

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1 went on, Mr. Vamvakias and Mr. Hunter and Mr. Gogel pursued the
2 plot to murder the DEA agent and the informant.

3 But I think it drastically misstates the nature of
4 what Mr. Soborski understood himself to be associating with to
5 try and excise references to violence out of the PSR.

6 MR. STAMPUR: May I respond? Because, Judge, you
7 know, we stand here in this sterile environment. And you saw
8 the tapes, and you saw what really happened. My client went
9 there -- and I think he misspoke again. He went there not
10 knowing -- he assumed he was responding to his normal, standard
11 operating procedure for a job where he got paid for security.
12 Yes, he met Mr. Hunter. Yes, there came a time when it was
13 explained to him that this involved a possible transportation
14 of drugs. Yes. Was that a mistake? Absolutely. He admitted
15 to that, and that's why he's here. That's why he pled guilty.

16 But there came a time where he never recognized this
17 thing as an organization, quote/unquote. That's why I say
18 sterile environment. They met these two confidential -- the
19 two confidential sources who were introduced to them as
20 Colombian drug dealers. And they had these meetings where
21 those sources did all the talking. And they're working for the
22 government. And they said, this is what possibly can happen.
23 This is what possibly can happen. Do you understand? Do you
24 want to participate? And his response was, yes.

25 The reality is, as time went on -- and I don't want to

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1 belittle the government's operation. He recognized when they
2 told him the next day to go out and look at this boat, which he
3 did, he realized this was an -- I don't want to say the wrong
4 thing, the easy security job. He got paid a substantial amount
5 of money, and there was no violence. There was no weapons.
6 There were no drugs. Then he left and he went home.

7 And then the next month they called him to go to
8 another place. And he said, I'm going to make easy money
9 again. And he went there and, once again, was all security.
10 There was no violence. There was no talk about killing anyone
11 then in Africa. And then he went back and they called him to
12 go to the Bahamas to make some easy money. And they said, it's
13 going to be drugs going in on a plane. And there was no talk
14 about violence. He knew that there was references, don't get
15 me wrong, from Hunter and -- from Vamvakias and Gogel about
16 this possible bonus work. He never participated, as the
17 government knows, and he wanted no part of it. He just wanted
18 to make some easy money for this, quote/unquote, security. And
19 he did that, and he was wrong.

20 THE COURT: Thank you.

21 MR. STAMPUR: You understand, Judge?

22 THE COURT: I understand your argument.

23 MR. STAMPUR: I'm just trying to give you the complete
24 picture.

25 THE COURT: And I do understand the picture as you're

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1 depicting it.

2 It is my conclusion, based on my view of all of the
3 material and my consideration of the remarks today, that the
4 record is clear that Mr. Soborski was aware that the activities
5 of the people and purported organization with which he was
6 associating himself did include violent activity; and that it
7 was represented to him that murders had occurred in aid of the
8 work or activities of the organization; and that other bonus
9 work assassinations were possible and, under certain
10 circumstances, being planned. He indicated that he would be
11 willing to do that. And so those aspects of the activities of
12 the organization are relevant to the overall picture of the
13 criminal activity with which Mr. Soborski voluntarily
14 associated himself.

15 Having said that, I will delete certain paragraphs
16 that don't place Mr. Soborski in particular conversations or
17 transactions. Specifically, I am granting the application to
18 delete paragraph 26. I will also delete paragraphs 44 and 45.
19 And I will delete paragraphs 53 through 64. So that is my
20 ruling on that application.

21 I have read carefully the parties' submissions on the
22 issues of the aircraft enhancement, the special skills
23 enhancement and the application for a minor role adjustment.

24 Is there anything further that either counsel wishes
25 to say on those issues before I rule on those guideline

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1 implication issues?

2 MR. STAMPUR: There is nothing further I can say,
3 Judge. I know you've read my submission so -- and I know
4 what's happened in the other codefendants' cases. So I don't
5 think I have anything to add on those issues.

6 THE COURT: Mr. Lockard?

7 MR. LOCKARD: No, your Honor. Unless the Court has
8 any further questions.

9 And I would also ask just a clarification. I
10 apologize. What was the last paragraph of the PSR the Court
11 indicated would be stricken?

12 THE COURT: 64.

13 MR. LOCKARD: Thank you, your Honor.

14 THE COURT: So I will now rule on the guideline
15 application issues.

16 First, with respect to the aircraft enhancement, I
17 find that that two-point enhancement is not applicable in this
18 case. The guideline in question is written in terms of
19 completed conduct, and here there was no actual importation.
20 The importation of a controlled substance using an aircraft did
21 not actually occur. Accordingly, that enhancement will not be
22 applied. And I will direct that the probation department
23 delete paragraph 76 of the PSR and update the calculations in
24 paragraphs 81, 85 and 114 accordingly to reflect a total
25 offense level of 33.

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1 As to the special skills enhancement, I find that the
2 two-point enhancement for use of special skills is applicable
3 and appropriate in this case. Mr. Soborski was hired into this
4 criminal enterprise because of his military background and
5 training. And that background and training aided him in his
6 activity in furtherance of the conspiracy; specifically, in the
7 provision of surveillance and countersurveillance.
8 Mr. Soborski qualified for his position within this
9 organization by offering and employing skills that he gained in
10 the military and relied on those skills. The Court, therefore,
11 finds that the 3B1.3 enhancement is properly applied.

12 The Court has also considered the defense arguments
13 regarding the propriety of a minor role adjustment. And the
14 Court finds that the facts of this case do not support the
15 application of Section 3B1.2B of the guidelines to include a
16 minor role adjustment. There is significant evidence,
17 including transcripts of recorded conversations, demonstrating
18 Mr. Soborski's awareness of the full scope of the criminal
19 enterprise in this case, including, as I've mentioned a few
20 minutes ago, plans to commit murder for hire in furtherance of
21 the criminal enterprise. And the evidence indicates that at
22 least at times Mr. Soborski indicated his willingness to
23 participate in such activities, although he was not ultimately
24 selected to participate in the particular murder-for-hire plot
25 that is a central aspect of the prosecution of some of his

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1 codefendants.

2 This awareness of the scope of the activity that he
3 was protecting and, thereby, facilitating distinguishes
4 Mr. Soborski from a mere courier or low-level participant in a
5 larger criminal enterprise, which is the context envisioned by
6 Section 3B1.2 of the guidelines. And indeed, comment 3(i) to
7 Section 3B1.2 indicates that a defendant's understanding of the
8 overall scope and structure of the criminal activity is a
9 factor worthy of consideration in determining whether a
10 defendant played a minor role.

11 And so once again, the evidence indicates that
12 Mr. Soborski was fully aware of the scope, structure and
13 overall nature of the criminal enterprise, including its use of
14 violence and of the volume of purported drug trafficking he had
15 been hired to protect. And the application for a minor role
16 adjustment is denied.

17 The Court does find that Mr. Soborski satisfies the
18 conditions of Section 3553(f) of Title 18 and Section 5C1.2 of
19 the guidelines with respect to the safety valve, and therefore
20 the Court will sentence Mr. Soborski without regard to the
21 otherwise applicable mandatory minimum custodial sentence and
22 will credit the two-point offense level reduction.

23 Are there any other guideline application issues or
24 PSR content issues that we should focus on before the Court
25 hears general sentencing arguments?

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1 MR. STAMPUR: Not from me, your Honor.

2 MR. LOCKARD: No, your Honor.

3 THE COURT: Thank you.

4 Then, Mr. Stampur, I'd invite you to -- actually,
5 sorry. There are just a couple of things.

6 Mr. Lockard, what is the government's position with
7 respect to forfeiture?

8 MR. LOCKARD: Your Honor, as with the other defendants
9 in this case, the government would request at this time that
10 the Court enter a general order of forfeiture for all proceeds
11 received by the defendant as a result of his participation in
12 the offenses of conviction. And we will, in consultation with
13 Mr. Stampur, endeavor to submit a written forfeiture order for
14 the Court's consideration.

15 THE COURT: Any objection?

16 MR. STAMPUR: No, your Honor.

17 THE COURT: Very good. I will do that.

18 And is the government applying to have Mr. Soborski
19 credited with the third point for acceptance of responsibility?

20 MR. LOCKARD: We do apply.

21 THE COURT: That application is granted. And the
22 third point is already reflected in the computations in the
23 PSR.

24 So now, Mr. Stampur?

25 MR. STAMPUR: I apologize for my prospective

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1 redundancy, Judge. When I was preparing a few notes for
2 today's sentence, I was working on my computer. And I thought
3 of when I first met Mr. Soborski, and we had a very lengthy
4 discussion about why I was meeting him in the MDC. And his
5 response was, because I once answered an e-mail on a computer.

6 And I've already sort of touched upon it a few moments
7 ago, because when he responded to that e-mail on his computer,
8 it was a very normal procedure that he had utilized in that
9 recent past, almost four years ago, to secure employment all
10 over the world. And then this odyssey began. He responded to
11 that e-mail from, as I indicated before, from -- I forgot the
12 source. It wasn't Hunter's name. It was Jim something. And
13 he said, I can provide money. Come to Thailand, and I need you
14 for security. And that was the beginning of this odyssey.

15 But prior to that, I mean, that e-mail response was --
16 it was in his normal surroundings in Poland, where he lived
17 with his -- well, he has a teenage son, working class parents,
18 one of the women who he referenced before, thinking really
19 nothing of it, but here's another job; another job that was on
20 top of his life. When you talk about this aberration -- and
21 this was mistake with a capital M, it really is. It really is
22 an aberration for someone like himself. That's why I suggest
23 to the Court, he is distinguishable from all of the other
24 codefendants, including Mr. Filter, who had a connection to
25 Gogel. He had connection to no one.

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1 And prior to that, because he's older than everyone
2 else -- he's in his 40s -- his whole life was dedicated to
3 upholding law and order. He left his own home because they
4 live in a small house -- his sister, his two working class
5 mother and father -- and it got too crowded. When he was 19,
6 he said, you know what? I'll go into the military. And that's
7 where it started.

8 And it piqued his interest to get involved with the
9 airborne and everything else that followed. And he did that
10 for so long, and he got to be part of their antiterrorism unit.
11 He guarded the president of Poland. He guarded George Bush
12 when he came to visit. He guarded the Pope. But he was in the
13 background. He was one of those people who everyone felt
14 secure with. And he was a professional.

15 And then at some point he said, I can utilize my
16 skills in a different capacity. He followed someone else's
17 suggestion. And he ended up securing the life of an emirate's
18 son in the Middle East. He was on a tanker, oil tanker,
19 defending against piracy. He went to Haiti to work for a
20 company. He had a Canadian connection who sent him around the
21 world, everything on the up and up, and the majority of them in
22 a response to an e-mail. This e-mail, the nightmare e-mail --
23 he always said to me, I wish I wasn't home. But he was home,
24 and he made the gargantuan mistake that brings him before the
25 Court today.

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1 And just to exacerbate his situation -- and that's why
2 I changed my request to the Court. I know it's -- in Estonia,
3 when the government decided it was time to take these guys
4 down, he was asked to come to Estonia. And Filter also went
5 there. And for no reason, with the DEA agents standing close
6 by, he was attacked by, not them, the Estonian authorities. I
7 know the government knows this because it took place in front
8 of their own witnesses. And for no reason whatsoever, the end
9 result was after they threw him in the car and took him to
10 some -- I guess what you call precinct, and he couldn't move
11 his legs. He had lost his consciousness. He was bleeding.

12 They then recognized that they better get him to a
13 hospital. And he had emergency surgery in Estonia. They
14 removed his spleen. They thought they stopped the bleeding.
15 And he was there for like one day, and then they threw him into
16 this prison, which is a vestige of -- I don't know how many
17 centuries ago, that's why I gave you some pictures. And he was
18 there in solitary confinement, no follow-up medical care, and
19 with a hole in the wall for a bathroom. And after three or
20 four months, one of the guards saw how bad he was and got him
21 into an adjoining facility in Estonia; not much better, but
22 never had any medical treatment.

23 Now, he comes to Vienna, DC. And the first time I
24 meet him he complained about -- he has a scar that, your Honor,
25 goes from this part of his chest, top of his chest down to the

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1 lower part of his abdomen. And he showed it to me, and there
2 was some swelling already. And I said, are you getting medical
3 care here? And he said, I put in a call for the doctor.

4 To make a long story short, one of the reasons the
5 sentence has taken so long, as the Court knows, is that
6 eventually he got him to a local hospital in Brooklyn. And the
7 surgeon saw him and said, you need immediate surgery. That was
8 like a year, 18 months ago. They shipped him back. That
9 surgeon, though, stayed within the picture. And I spoke to
10 him. And eventually, eventually, after two to three other
11 appearances in that hospital, they performed corrective surgery
12 on what took place in Estonia.

13 That being said, his time here in the MDC has been
14 horrendous. And to add to that, at some point this gentleman
15 who, as you can see from his resume and everything else, who
16 prided himself on his physical stature and his physical
17 condition, who was affected dramatically, who sometimes would
18 drag himself into the interview room with me, he fell in the
19 shower and tore his knee. So at one point we laughed together
20 because he still was suffering from his stomach pains and he
21 was suffering from his knee. Both of those have been
22 corrected.

23 That's why I want to explain to the Court the multiple
24 requests for adjournments, because once I made a connection
25 with that one surgeon, he suggested that, don't let him get

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1 sentenced, I will correct this; because if he gets sent
2 somewhere else, the whole process will start all over, and I
3 know what to do. And I even said for the very last time in the
4 first week or so, even though he's rehabilitating his knee, he
5 feels better.

6 But as he's constantly pointed out to me, why did they
7 have to do that in Estonia? I don't know. And I'm sure no one
8 has an answer for it. He's indicated to me many times that in
9 his capacity as a law enforcement person, he's handcuffed and
10 taken hundreds, thousands of people, he says, into custody.
11 He's never used extreme violence. He knows what to do. And
12 that day, he cannot explain why they reacted that way.

13 THE COURT: That is a horrible thing.

14 MR. STAMPUR: It is a terrible thing, Judge. And I
15 tell you that because Mr. Soborski has said to me many times,
16 I'm ready to accept punishment for what I did with the drugs.
17 I understand that. I broke the law. But I'll never be the
18 same physically. And I would take so much more time if I could
19 have my physical capabilities and my body back. And I said,
20 well, it is what it is and life goes on.

21 And that's why this odyssey, his difference from all
22 of the other codefendants I think -- from my perspective,
23 obviously, and I'm somewhat prejudiced, is something for the
24 Court to consider.

25 THE COURT: I hear you, and I do understand. And I am

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1 taking it into account --

2 MR. STAMPUR: I understand.

3 THE COURT: -- in my consideration.

4 MR. STAMPUR: I understand, Judge. I appreciate it.

5 He has no one in the country, your Honor. I pointed
6 it out. I've acted as best as I can as sort of intermediary.
7 His family periodically will send it to me. I'll put it into
8 commissary. He doesn't have -- he has no other context, so I'm
9 his -- whatever, lifeline, so to speak.

10 And here he is. And all he wants to do is attempt to
11 rehabilitate his knee, attempt to get his physical being back
12 to whatever it will be, as best as it can be, and go home. And
13 I think the Court -- my lengthy submission I think speaks
14 wonders of the other issues about him and his prior life. And
15 when I say an aberration, it's with a capital A in this case.
16 It doesn't in any way, shape or form justify why he continued.

17 So many times he said to me, I should have left, I
18 should have left. And you know what? The reality is -- and I
19 said it before, I really believe this: When he saw it was easy
20 money, and when he said, just security, take a picture of the
21 boat, he took a picture, Judge.

22 For what it's worth, he said, I was never committing
23 violence on anyone. And, in fact, I'm telling you, Judge, the
24 government knows, his codefendant didn't want any part of him.
25 When they talked about the bonus, Vamvakias said, he's not part

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1 of it because he -- I don't want to express -- he doesn't want
2 anything to do with that. But here he is, Judge. He was
3 surrounded by people who were doing bad things and potentially
4 who were going to do worse things, and they did.

5 But lastly, even when he was in Thailand and in Africa
6 and in the Bahamas, he stayed to himself. He was a real loner.
7 I know he associated with those guys, but he really didn't --
8 he didn't feel comfortable. He didn't want anything really to
9 do with them. I mean, that's sort of a contradiction in terms,
10 but he recognized early on and told me that he didn't totally
11 understand them. He didn't consider them to be professional.
12 On the other hand, he went there and he accepted the money they
13 gave him. And here he is, Judge.

14 I don't know what else I can say. I'm just trying to
15 give you his picture and what really happened at those
16 different locations. They were short-lived. It was in the
17 Bahamas a few days, and he was in Africa a few days. And prior
18 to that, he was in Thailand for a few days, and then they would
19 go back home.

20 THE COURT: Yes, you've explained that earlier.

21 MR. STAMPUR: I know, Judge. I'm sorry for being
22 repetitious. I got excited because -- anyway, I don't think I
23 have anything further to say. If you have any questions of me,
24 I'm more than willing to answer some.

25 THE COURT: You've been quite thorough here and in

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1 your submission, Mr. Stampur.

2 MR. STAMPUR: Thank you, your Honor.

3 THE COURT: Mr. Lockard?

4 MR. LOCKARD: Your Honor, the government's remarks are
5 going to be focused on the part of this case that we think is
6 most important from a sentencing consideration, which is the
7 nature and seriousness of the offense and the role that the
8 defendant's personal history and characteristics play into the
9 seriousness and the dangerousness of this particular offense
10 and this type of offense.

11 Mr. Stampur said that the defendant approached this
12 thinking it was any routine, ordinary international private
13 security job. I don't think the record supports that
14 assertion. In Mr. Soborski's initial e-mail to Joseph Hunter,
15 who was the head of the security team, who was an individual
16 who had been associated with the organization for many years,
17 is an individual who had personally participated in and
18 supervised acts of violence, including murders on behalf of the
19 organization, when Mr. Soborski reached out to Mr. Hunter, he
20 acknowledged that he had been referred by a friend of
21 Mr. Hunter's who had been in the French foreign legion and was
22 submitting his resume to Mr. Hunter.

23 He wasn't sending a resume to a multinational
24 corporation. He wasn't sending a resume to a company that you
25 can look up on the Internet. He was sending one to Joseph

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1 Hunter, who was an international mercenary; who was somebody
2 whose responsibilities and job function was to plan, recruit
3 and supervise acts of violence.

4 THE COURT: Do you have any specific evidence
5 indicating that Mr. Soborski was aware of Mr. Hunter's
6 extensive history as a violent mercenary?

7 MR. LOCKARD: So we don't have the communications that
8 Mr. Soborski had with Mr. Hunter's colleague from the French
9 foreign legion, but here's what we do have: We have the fact
10 that Mr. Soborski is the one who proactively sent his resume to
11 Mr. Hunter. We have the fact that when Mr. Soborski arrived in
12 Thailand, he was immediately told the nature of the
13 organization he'd be working with. He was within the first two
14 days advised by Mr. Hunter himself a lot of significant and
15 disturbing facts about Mr. Hunter's personal history and his
16 past work.

17 And he sat in meetings, both with Mr. Hunter and with
18 the confidential sources, who were holding themselves out as
19 cartel members, where he was advised individually, directly and
20 repeatedly about the nature of the organization, the nature of
21 the work, the violence likely involved in the work, the vast
22 scope of the drug trafficking that would be involved. And he
23 never flinched. He never batted an eye. In fact, he
24 affirmatively verbally acknowledged his awareness of it and his
25 interest in participating in it.

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1 None of that is consistent with being taken by
2 surprise by the nature of the organization. I can't say that
3 he had full awareness of all that before he went in, but it is
4 not credible or plausible to suppose that he thought this was
5 an ordinary, legitimate job before he arrived, and right away
6 acknowledged his interest in participating in the
7 organization's activities.

8 He then participated in work on behalf of the
9 organization not once or twice, several times, and in a way
10 that shows the degree of involvement and commitment and really
11 lack of -- it's not a mistake, right? He regrets it now, I'm
12 sure, but none of his actions were mistaken. He intentionally
13 traveled to Thailand. He intentionally traveled to Mauritius.
14 He intentionally traveled to the Bahamas. He intentionally
15 traveled to Estonia. For a period of six or seven months, he
16 trotted the globe to engage in work for this organization.

17 He did so in the company of other men that he knew
18 were former military members like himself, from Germany and
19 from the United States. He was physically present for the
20 purpose of providing personal security at meetings that the
21 confidential sources had with other real-life drug traffickers
22 who were also investigative targets as they sat in Mauritius
23 and discussed additional drug trafficking activities involving
24 multi-hundred kilogram quantities of cocaine. He participated
25 in countersurveillance of individuals who he knew -- because it

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1 had been described to him by the confidential sources, men that
2 he knew were involved in international weapons trafficking.
3 None of this is accidental. This is not a momentary lapse of
4 judgment. This is a sustained, lengthy course of conduct with
5 lots of intentional actions, affirmative actions on
6 Mr. Soborski's part to participate in that.

7 I'm going to credit Mr. Stampur's explanation for why
8 Mr. Soborski did it. It was easy money. We don't think that's
9 particularly mitigating in the circumstance, because easy money
10 is sort of the very reason why people participate in drug
11 trafficking to begin with. It is the universal motivation for
12 joining organizations like this, for participating in this kind
13 of activity; because it can be very lucrative.

14 But that doesn't diminish how dangerous it is. It
15 certainly doesn't diminish how dangerous it is for someone like
16 Mr. Soborski, who was highly trained, who was highly qualified.
17 I would say he is the most highly trained, highly qualified
18 member of this team, short of Mr. Hunter himself, who had 20
19 years in the US Army.

20 But to take that kind of public trust and public
21 responsibility and public investment, provide it to an
22 individual for the purpose of providing security and safety for
23 a nation and its citizens, to then take those skills and those
24 resources and betray them and then turn them against the very
25 principles that he had been trained to protect makes that

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1 conduct, first, the moral reprehensibility reflected by the
2 betrayal, but second, the dangerousness of it. International
3 drug trafficking organizations are dangerous by definition.
4 Not only do these organizations spread the corrupting influence
5 of illegal narcotics throughout the world, but they also spread
6 corruption and violence.

7 And Mr. Soborski joined what he understood to be just
8 that type of organization for the purpose of lending his
9 training and his skills as a former member of the military, a
10 former counterterrorism official, someone highly trained in the
11 use of weapons and hand-to-hand combat, to lend those skills to
12 that organization and support and promote its activities.

13 And so for all those reasons, the government submits
14 that it's important that this sentence, like the sentences of
15 Mr. Soborski's codefendants, reflect the nature and seriousness
16 of that conduct in this offense.

17 MR. STAMPUR: May I be heard briefly, Judge, in
18 response.

19 THE COURT: Very briefly.

20 MR. STAMPUR: I can repeat myself. When he went
21 there, he did not know -- as the government has indicated, they
22 have absolutely no evidence that he knew what was going on.
23 And, in fact, when Hunter meets for the very first time -- they
24 have that evidence -- Hunter was explaining to him and to the
25 other codefendants who he was and what this whole thing was

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1 about. So their own evidence shows that everyone was then for
2 the very first time finding out what was going on, because he
3 didn't know what was going on until he got there. That's
4 number one.

5 And we never denied that he's made these mistakes, but
6 to generalize about worldwide drug trafficking is just not
7 fair, because, I'll say it again, each case rises and falls on
8 specific facts and the dynamic of what transpires at that time.
9 So when he got there -- and I'm trying to give the Court the
10 best picture I can -- and he saw what this thing was about --
11 and braggadocio is the word I use, because Hunter was talking
12 about this and that. And he just listened, didn't say a word.
13 So to throw that --

14 THE COURT: Mr. Stampur --

15 MR. STAMPUR: It's not fair.

16 THE COURT: Mr. Stampur, he stayed. He worked
17 repeatedly for the organization. He didn't say, you aren't the
18 kind of people I want to be with, you aren't the kind of people
19 whose needs I want to help serve. He didn't leave.

20 MR. STAMPUR: That is true. I'm just trying to show
21 the Court that -- yes, he did that --

22 THE COURT: I hear you, and I wanted to make sure that
23 you hear me.

24 MR. STAMPUR: I want to tell you, though, the
25 confidential sources constantly said for him, you're here for

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1 security. You're here for security. And he stood there.
2 That's all he did. He stood there, and he got his money, and
3 that was the security.

4 He did take pictures of boats. They told him to go
5 out and take a picture of a boat. He did that.

6 THE COURT: I hear you.

7 MR. STAMPUR: You understand, Judge?

8 THE COURT: Yes, I do. I do understand what you're
9 saying. Thank you.

10 Mr. Soborski, do you wish to speak on your own behalf
11 before I decide on your sentence?

12 THE DEFENDANT: Initially I wanted to thank
13 Mr. Stampur for representing me.

14 (In English:) I'm really sorry. I speak Polish and
15 English. Some people tell me better, I see. Okay. Twenty
16 months ago I plead guilty. One months ago before I go to
17 meeting --

18 THE COURT: If you're going to speak in English, I
19 need you to speak a lot slower. Probably even if you're
20 speaking in Polish, you have to speak slower, so that I can get
21 all of your words.

22 THE DEFENDANT: Twenty months ago I plead guilty for
23 providing security, okay, draft notification, how many notes,
24 Colombia cartel, yes. One month ago I plead guilty. I go with
25 Mr. Stampur to taking responsibility with security --

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1 THE COURT: I think it's probably better if you do
2 this in Polish and let the interpreter speak. Thank you.

3 THE DEFENDANT: Twenty months ago I pled guilty. I
4 was in private security for the Columbian organization. One
5 month before I pled guilty as my attorney, Mr. Stampur, we met
6 with -- together we met the prosecutor for the safety valve. I
7 don't know how you call it, actually. I said, Mr. Prosecutor
8 asked me -- several questions of me regarding what my position
9 in the group was. When he asked questions, I told him it was
10 exactly what it was, how things were. That is true. I am the
11 former antiterrorist senior in Poland. One can compare that to
12 your Navy SEALs.

13 A dozen or so times here, the prosecutor asked the
14 question, Mr. Soborski, so your experience and the skills are
15 twice as much Hunter, Gogol, Filter and Vamvakias has. Why
16 didn't you take this bonus job? I give the short response. I
17 had the agreement with Mr. Hunter, but before that it was the
18 jimmy rigger. I'm not interested in that kind of job. As far
19 as narcotics are concerned, likewise, I was not interested in
20 the gaining any profit from narcotics. My job was supposed to
21 be security only. Maybe it is complicated. But for people who
22 do that kind of work, it is not complicated.

23 Because my response is short. American company,
24 Blackwater, back in 2006, Fallujah, there were 16 innocent
25 people killed on the street. On the same day they were

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1 transported back to the United States. They never faced the
2 Iraqi court.

3 Back in 2009, I received a reply from the American
4 company, I believe that was the Bridgestone. The question, are
5 you interested in work in South America? And I asked, what was
6 the nature of the job? And it's fighting guerrillas. I was
7 not interested, because in Poland gorillas are perceived as the
8 heroes, guerrillas.

9 Was also another thing. The prosecutor asked me, why
10 didn't I leave the group? What's wrong -- what wrong did I do?
11 I was sitting all by myself in the villa, and they were
12 bringing money to me every month. And what about my skills and
13 the experience? No one saw what my skills are. And since, you
14 know, taken a dozen or so pictures from an iPhone of this boat,
15 you know, that does not count as the surveillance of the boat.
16 To me doing surveillance, that means doing something when
17 you're hidden and not doing something in broad daylight.

18 I would like to put this to an end, but there are a
19 lot of things that I would like to say. But if I did that, you
20 know, all of this was -- would be dragged out. This we can end
21 this case here today, but this case in Estonia will still be
22 open. And why? Because when I was arrested in Estonia, and
23 the consul came to me, and he asked me, what was the basis for
24 my arrest?

25 My response was that, well, it was my participation in

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1 a group. And he told me that it was not. He said that the US
2 government sent the information to the Polish media that I was
3 the gun for hire and also that I profit from narcotics. And
4 when he received the documents that I myself received from the
5 Estonia document, it had these indictment papers. The
6 indictment itself mentions narcotics only. And at that time,
7 around that time, the Polish TV aired the documentary about me,
8 about my history, about my career that I had in the special
9 forces. And the Polish government was very upset because of
10 the actions taken by the US government.

11 And the consul sent the letter to the American
12 ambassador and also to the Estonian ambassador and also to the
13 US Embassy. And the response from the Estonian government was
14 that they were not doing such things. And there was no replies
15 from US Embassy. So response is simple: Hence the ambassadors
16 was not able to find out what happened about -- in connection
17 with my surgery when this emergency surgery was performed.

18 I myself also received no reply for seven months about
19 that. My first day after arriving here to the United States --
20 and as Mr. Stampur mentioned about that. And Mr. Stampur asked
21 me what happened with me back in Estonia. What was it that was
22 operated on? What happened? And the response from the
23 prosecutor was very swift: During the arrest, Mr. Soborski
24 lost his spleen and he was operated on.

25 I asked Mr. Stampur dozens of times, maybe thousands

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1 of times, who was responsible for this -- for my spleen, for my
2 health issue? Because there will be an indictment against the
3 Estonian government in connection with that. And the worst
4 thing is that I received a copy of this report of
5 investigation, and that was prepared by these DEA agents who
6 were present in Estonia. And that report was prepared five
7 days following my arrest. There is no mention of this. There
8 is nothing. None of it says about what happened to
9 Mr. Soborski.

10 THE COURT: Mr. Soborski, today my responsibility is
11 to decide on your sentence for your conduct. And this criminal
12 case is not the case about any potential claims against anyone
13 else or any other government regarding the attack on you. And
14 I have nothing to do with the diplomatic communications and the
15 communications between the various agencies.

16 So I would like you to conclude your remarks by
17 focusing on what you want me to know about you and what you
18 want me to consider in sentencing you.

19 THE DEFENDANT: What else can I say? I agreed to be a
20 security detail. And I was paid for the hours for providing
21 security. But I became a drug dealer.

22 Your Honor, if you do read my whole life history and
23 my resume, and you were able to see me before I got arrested,
24 you would never be able to say that someone with this physical
25 build would be a drug dealer. All my life, I spent all my life

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1 with the carbine and the pistol, and when I worked for the
2 government, the antiterrorist unit, later as a contractor.

3 That's all. Thank you.

4 THE COURT: We will take a break of five minutes while
5 I will continue to reflect on what I heard, and then I will
6 come out and explain and announce the sentence.

7 (Recess)

8 THE COURT: I reviewed carefully all of the
9 submissions in advance of today's proceedings, and I have
10 listened very carefully to everything that has been said here
11 in court today.

12 I adopt the factual recitation that is set forth in
13 the presentence report, with the changes that we discussed
14 earlier on the record. The Court has discretion, taking into
15 account the applicable statutory provisions in exercising its
16 power under Section 3553(a) of Title 18 to determine the
17 particular sentence to be imposed in each particular case.
18 That law requires the Court to consider a number of specific
19 factors and sentencing goals, which include the nature and
20 circumstances of the offense; and the defendant's history and
21 characteristics; the need for the sentence imposed to reflect
22 the seriousness of the offense, promote respect for the law and
23 provide just punishment, deterrence and protection of the
24 public, among other considerations.

25 The Court considers the types of sentences that are

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1 available and the provisions of the sentencing guidelines, as
2 well as the need to avoid unwarranted sentencing disparities
3 among defendants with similar records who have been found
4 guilty of similar conduct.

5 The law requires this Court to impose a sentence that
6 is sufficient but not greater than necessary to comply with the
7 statutory sentencing purposes.

8 As to the sentencing guidelines, I conclude that the
9 applicable guideline offense level is 33, for the reasons that
10 I explained earlier, and that the applicable criminal history
11 category is I. Accordingly, the advisory guideline range for a
12 custodial sentence is from 135 to 168 months of imprisonment.
13 And I have used the November 2015 edition of the guidelines
14 manual in making these determinations.

15 I have considered the question of whether there is an
16 appropriate basis for a departure from the advisory range
17 within the guideline system, and I find no grounds warranting a
18 departure under the guidelines. I have, therefore, gone on to
19 consider the full range of Section 3553(a) factors and all of
20 the information that has been put before me in light of the
21 Section 3553(a) factors and goals in determining the
22 appropriate sentence.

23 As to the nature and circumstances of the offense,
24 Mr. Soborski's offense is a very serious one. Although in his
25 mind and by his specific conduct he limited his direct personal

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1 activities to surveillance and countersurveillance activities
2 that were not themselves necessarily that significant, he did
3 this in aid of the protection and support of an organization
4 that he understood was engaged in the illegal transport of
5 hundreds of kilos of illegal drugs to the United States and
6 that was involved in violence in the protection of its
7 activities. He understood that the scope of work of the
8 security team included violence and the opportunities for
9 so-called bonus work. He believed and had every reason to
10 believe at the time that the drug quantity that he was told was
11 involved in the shipment destined for the United States was
12 true.

13 And so his situation, although this was a sting
14 operation, it was one that is characteristic of the purpose and
15 efficaciousness of the sting operation. It is the means of
16 identifying and incapacitating people who, like Mr. Soborski,
17 have skills and willingness to facilitate major dangerous drug
18 operations and potentially perpetrate violence. It is not a
19 factor mitigating the seriousness of the crime to say that he
20 was able to do what he did with relative little effort and
21 obtain a lot of money for it. People are drawn into this
22 activity and support and protect these sorts of organizations
23 for lots of money. And sometimes they're able to do that
24 without engaging in violence themselves, but the purpose of the
25 activity and the effect of the activity is to put other lives

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1 in danger; to perpetuate dangerous drug trafficking, corruption
2 and threats to both people who are working lawfully in law
3 enforcement and societies in general. And so Mr. Soborski's
4 crime is a very serious one indeed.

5 The Court recognizes that his life before this
6 criminal activity was one that was quite admirable. He had a
7 distinguished career in the military. He was entrusted with
8 important antiterrorism and protection detail work and worked
9 in a counterterrorism capacity for many years. His country
10 helped him obtain these skills, and he served his country
11 faithfully. But he then turned those skills in aid of activity
12 that was dangerous and illegal.

13 The Court recognizes that he is now in his 40s and
14 that a lengthy custodial sentence will put him in his later 40s
15 at a minimum by the time he is released. And the Court
16 recognizes in this regard that statistically the risk of return
17 to criminal activity decreases with age. And the Court also
18 recognizes that the injuries that Mr. Soborski has sustained
19 also make it less likely that he would have the same sorts of
20 opportunities that he had before. And so this is a factor that
21 the Court considers in fashioning a sentence.

22 The Court also recognizes that the conditions of
23 Mr. Soborski's arrest and confinement, particularly the attack
24 and conditions of confinement when he was in Estonia, were far
25 harsher and injurious to Mr. Soborski than would be expected in

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1 the United States, and that his arrest and history in custody
2 have been much harder on him than the experience of a normal
3 federal prisoner. And I will take those circumstances into
4 account in fashioning his sentence.

5 A lengthy custodial sentence is required, however,
6 particularly to deter others from succumbing to the temptation
7 to earn easy money by protecting dangerous organizations with
8 skills legitimately obtained through public service.

9 The Court also finds that a moderate variance will not
10 work in an unwarranted disparity between Mr. Soborski's
11 sentence and those of other similarly situated defendants.

12 And so having considered the seriousness of the
13 offense, the need for deterrence and protection of the public,
14 the severe injuries and medical complications that Mr. Soborski
15 has suffered while in custody and continues to work to
16 remediate and recover from the conditions of his confinement in
17 Estonia, and his age, which is indicative of a reduced risk of
18 recidivism, the Court finds that a downward variance from the
19 guideline sentencing range is necessary to ensure that the
20 sentence imposed is one that is reasonable within the meaning
21 of the law, appropriate and no greater than necessary to
22 satisfy the statutory purposes of sentencing.

23 The Court finds that Mr. Soborski is required to
24 forfeit to the United States the proceeds of his criminal
25 activity. And the amount of those proceeds will be quantified

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1 in a subsequent court order. I will now state the sentence
2 that I intend to impose.

3 Mr. Soborski, would you and Mr. Stampur please stand.

4 Mr. Soborski, it is the judgment of this Court that
5 you are to serve 108 -- that is 1-0-8 -- months of
6 imprisonment, to be followed by two years of supervised
7 release. The standard conditions of supervision 1 through 13
8 as detailed in the sentencing guidelines manual will apply.
9 These conditions will be announced specifically in the judgment
10 that I file and will be explained to you by the probation
11 department at the appropriate time.

12 You will also be subject to the following mandatory
13 conditions: You must not commit another federal, state or
14 local crime. You must not illegally possess a controlled
15 substance. You must not possess a firearm or destructive
16 device. You must refrain from any unlawful use of a controlled
17 substance. And you must submit to one drug testing within 15
18 days of placement on supervised release and at least two
19 unscheduled drug tests thereafter, as directed by the probation
20 officer. And you must cooperate in the collection of DNA, as
21 directed by the authorities.

22 You must also meet the following special conditions:
23 You must submit your person, your residence, your place of
24 business, your vehicle and any property, computers, electronic
25 communications, data storage devices and/or other media under

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1 your control to a search on the basis that the probation
2 officer has reasonable suspicion that contraband or evidence of
3 a violation of the conditions of release may be found. Any
4 search must be conducted at a reasonable time and in a
5 reasonable manner. Failure to submit to a search may be
6 grounds for revocation of supervised release. You must inform
7 any other residents that the premises may be subject to search
8 pursuant to this condition. You must obey the immigration laws
9 and comply with the directives of the immigration authorities.
10 And if you are released into the United States, you will be
11 supervised by your district of residence.

12 In light of your financial circumstances, I will not
13 impose a fine on you. I will order that you pay to the United
14 States the mandatory special assessment of \$100, which is
15 payable in quarterly installments of \$25 through the Bureau of
16 Prisons inmate financial responsibility program. And I order
17 that you forfeit to the United States the proceeds of your
18 criminal activity to be quantified in a subsequent order.

19 I will recommend that the Bureau of Prisons credit the
20 time that you spent in custody in Estonia from September 13th
21 to April 2014 under -- sorry, September 2013 to April 2014
22 against this sentence.

23 I believe that this sentence is reasonable within the
24 meaning of the law, sufficient, appropriate and no greater than
25 necessary to satisfy the statutory purposes of sentencing,

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1 which include punishment and deterrence.

2 Does either counsel know of any legal reason why this
3 sentence should not be imposed as stated?

4 MR. LOCKARD: No, your Honor.

5 MR. STAMPUR: No. May I make a comment?

6 THE COURT: First, I will say that the sentence as
7 stated is imposed.

8 Mr. Stampur?

9 MR. STAMPUR: His codefendant, Michael Filter,
10 received a sentence of 72 months, which is exactly analogous.
11 And actually, Filter was more involved than my client. I just
12 don't know if the Court remembers that. When the Court just
13 referenced that it shouldn't be a disparity between
14 codefendants or people in like scenarios, Filter received 72
15 months, and now the Court is actually giving my client more
16 time than that when there is a distinctive difference between
17 the two of them.

18 THE COURT: It is not my recollection that Filter
19 received 72 months.

20 MR. STAMPUR: Or was it 84?

21 THE COURT: I think it was 96.

22 MR. STAMPUR: Then I stand corrected. It was
23 definitely less than 108.

24 THE COURT: It was less than 108, and there are
25 circumstances that, in the Court's judgment, warrant that

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1 differential.

2 MR. STAMPUR: Could the Court expand on that?

3 THE COURT: Pardon?

4 MR. STAMPUR: Might the Court expand on that, since --

5 THE COURT: No.

6 Mr. Soborski, I have something important to tell you
7 about your appeal rights. You have the right to appeal this
8 sentence. If you are unable to pay the cost of an appeal, you
9 may apply for leave to appeal in forma pauperis. At your
10 request, the Clerk of Court will file a notice of appeal for
11 you. Any notice of appeal must be filed within 14 days of the
12 judgment of conviction. So be certain to talk to Mr. Stampur
13 about this today.

14 Mr. Stampur, are there any particular recommendations
15 that you would request that I make to the Bureau of Prisons?

16 MR. STAMPUR: I just request that the Court designate
17 Mr. Soborski to the northeast corridor. He asked me
18 specifically for Fort Dix as a possibility.

19 THE COURT: So I will recommend Fort Dix or other
20 suitable facility in the northeast to facilitate communications
21 with counsel. And should I say in connection with appeal or
22 no?

23 MR. STAMPUR: I'm sorry?

24 THE COURT: Should I say to facilitate communications
25 with counsel --

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1 MR. STAMPUR: On appeal, yes.

2 THE COURT: And appeal?

3 MR. STAMPUR: Yes.

4 THE COURT: I will make that recommendation.

5 Mr. Lockard, are there any remaining counts or
6 underlying indictments that need to be dismissed at this time?

7 MR. LOCKARD: Yes, your Honor. At this time the
8 government moves to dismiss all open counts.

9 THE COURT: That application is granted.

10 Mr. Soborski, I just have a few more words, and I
11 thank you for listening.

12 The sentence that you've received today is a long one.
13 And I have done my best to explain why that is the case. I do
14 understand that you recognize and wish you hadn't taken the
15 steps that have brought you down this road. You're paying a
16 very heavy price for them. But every choice that you make
17 going forward is your own. And it is up to you to make choices
18 that are healthy and lawful and ones that will help you
19 continue to build the most solid foundation that you can build
20 for the remainder of your life. And I urge you to think in
21 those terms and do that every day, even as you're continuing to
22 serve the rest of this sentence.

23 You have a son who I'm sure you want to encourage to
24 be on and stay on the right path for his life. And so think of
25 your ability to be a good example for him and encourage him.

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1 And think of the people whose lives you've touched in a
2 positive way and who love and admire you. You think of the
3 letter from your sister and the letter from your former partner
4 in this regard.

5 And so I encourage you to make choices that reflect
6 the honor that you deserve as a person, that you should show
7 yourself and that society should show you, and that you wish to
8 show your family and your son. And that you learn from this
9 very hard experience that easy money can have very, very
10 serious consequences and end up having a very high price tag.
11 And so I urge you to decide and promise yourself and promise
12 your family, if you haven't already done so, that you'll never
13 again do anything that could even put you at risk of going to
14 prison.

15 I wish you a continued effective and full recovery
16 from your injuries. And I wish you and your family continued
17 strength and courage. And I do thank you for listening.

18 I thank Mr. Stampur for his work and Mr. Lockard for
19 his. I will direct that counsel be provided with an amended
20 copy of the presentence report and that a complete corrected
21 copy be prepared for the Bureau of Prisons and the sentencing
22 commission. All other copies must remain confidential. If an
23 appeal is taken, counsel on appeal are to be permitted access
24 to the report.

25 Counsel, is there anything further that we should take

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up together this afternoon?

MR. LOCKARD: Not from the government.

MR. STAMPUR: No, your Honor.

THE COURT: And is that a no, Mr. Stampur?

MR. STAMPUR: No.

THE COURT: All right. Thank you all. Keep well.

We are adjourned.

(Adjourned)